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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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DR. MILOS JIRICKO,  
Plaintiff,

v.

FRANKENBURG JENSEN LAW FIRM;  
JENIFER M. BRENNAN, lawyer, and  
CAROLYN STEVENS JENSEN, lawyer,  
Defendants.

**ORDER ADOPTING REPORTS AND  
RECOMMENDATIONS**

Case No. 2:16-cv-132-DB

District Judge Dee Benson

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Before the court are three Reports and Recommendations issued by Magistrate Judge Evelyn Furse, dated February 5, 2018, (Dkt. Nos. 130 and 132,) and February 6, 2018 (Dkt. No. 133.) In the first Report and Recommendation, Judge Furse recommends that this court deny Plaintiff's Motion for Leave to file a second Amended Complaint because it is futile. (Dkt. No. 130.) In the second Report and Recommendation, Judge Furse recommends that this court overrule Plaintiff's evidentiary objection to Defendants' submission of a state court ruling in connection with their Motion for Summary Judgment. (Dkt. No. 132.) In the third Report and Recommendation, Judge Furse recommends that this court dismiss Plaintiff's remaining fraud claim for lack of subject matter jurisdiction. (Dkt. No. 133.)

Plaintiff filed an Objection<sup>1</sup> to the Reports and Recommendations on March 5, 2018. (Dkt. No. 137.) In his Objection, Plaintiff makes the same arguments against the same defendants that have previously been dismissed from this case. Plaintiff reiterates his

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<sup>1</sup> Plaintiff also filed a document entitled "Motion to vacate void order (FRCP R 60)" which appears to object to the Reports and Recommendations of Judge Furse as being unconstitutionally void orders. The court considers those arguments as objections to the Reports and Recommendations as well.

constitutional challenge to the Utah Health Care Malpractice Act, and continues to allege that defendants conspired to engage in an unconstitutional act against him. Plaintiff also argues that this court maintains jurisdiction because he makes constitutional claims.

The court has performed a de novo review of the record that was before the magistrate judge and the reasoning set forth in her Reports and Recommendations. The court agrees with the reasoning and assessment of Judge Furse that Plaintiff has not alleged additional facts sufficient to support his claims against defendants, and his proposed amendment would be futile. The court also agrees with Judge Furse that Plaintiff's evidentiary objection should be overruled because the exhibit constituted relevant evidence of which the court properly took judicial notice. Finally, the court agrees with Judge Furse that no federal question remains in this litigation, diversity jurisdiction has not been pled, and it is appropriate for the court to decline to exercise supplemental jurisdiction over Plaintiff's remaining fraud claim. Accordingly, the court hereby ADOPTS Judge Furse's Reports and Recommendations in their entirety.

### CONCLUSION

For the foregoing reasons, the Reports and Recommendations of Magistrate Judge Furse (Dkt. Nos. 130, 132, 133) are hereby ADOPTED. Plaintiff's Motion to Vacate Void Order (Dkt. No. 136) is hereby DENIED. Plaintiff's Motion for Leave to Filed a Second Amended Complaint (Dkt. No 95) is DENIED, Plaintiff's evidentiary objection (Dkt. No. 96) is OVERRULED, and the court DISMISSES Plaintiff's remaining state fraud claim for lack of subject matter jurisdiction.

DATED this 15<sup>th</sup> day of March, 2018.

BY THE COURT:

A handwritten signature in black ink that reads "Dee Benson". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

Dee Benson  
United States District Judge